

REMARKS

Claims 1-28 and 30-43 were examined by the Office, and in the Office Action of February 3, 2009 all claims are rejected. With this paper, no claims are amended, added or cancelled, so that claims 1-28 and 30-43 remain in the application. Claims 1, 10, 19, 28, 30, 31, 32, 35, 38 and 40 are the independent claims. Applicant respectfully requests reconsideration and withdrawal of the rejections in view of the following discussion.

**Claim Rejections under 35 USC §103**

In section 5, on page 3 of the Office Action, claims 1-5, 10-16, 19-21, 26-28, 30-40 and 42-43 are rejected under 35 USC §103(a) as being unpatentable over 3GPP; Technical Specification Group Radio Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (R. 6) 3GPP TR 25.896 V0.3.2. (hereinafter TR 25.896) in view of Souissi (U.S. Appl. Publ. No. 2002/0075941). Applicant respectfully submits that claim 1 is not disclosed or suggested by the cited references, because the cited references, alone or in combination, fail to disclose or suggest all of the limitations recited in claim 1. The cited references at least fail to disclose or suggest signaling in the uplink information indicating one of the cells as a scheduling cell, each Node B receiving the uplink indicating one of the cells as the scheduling cell, and each Node B determining whether the Node B is in control of the scheduling cell, as recited in claim 1. For at least these reasons, claim 1 is not disclosed or suggested by the cited references.

The Office acknowledges on page 4 of the Office Action that TR 25.896 does not disclose the user equipment device signaling in uplink information indicating one of the cells as a scheduling cell, each Node B receiving the uplink indicating one of the cells as the scheduling cell and able to provide scheduling commands, and determining whether it is in control of the scheduling cell, and relies upon Souissi for this teaching. Souissi in general relates to self-organization of adhoc nodes by selecting a single master cell from two initial nodes to form an adhoc network, and providing the opportunity for additional nodes to join the adhoc network with this single master cell. Souissi further relates to coordinating scheduling among the different networks to avoid interference among the networks. However, the teachings of Souissi are fundamentally different from a mobile selecting during a soft handover procedure which of a

plural Node Bs may serve as scheduling cell in a hierarchical cellular architecture, as described in claim 1.

Specifically, Souissi describes an adhoc network, where two peer nodes negotiate a master node as the scheduling cell able to provide scheduling commands in the case no established network is present. See Souissi paragraph [0082]. Souissi describes that this can be done by selecting the first node to transmit as the master node. After this initial two node network is established, further nodes will join this network without a change of the master node. For example, Souissi states that when activity is found the device distinguishes as to whether an established piconet is being joined or a new one is being established. The mobile device may need to negotiate with another device to establish a piconet, namely to determine which device will be the master and which the slave. See Souissi Figure 5 step 65. This can be a matter of the order in which the units first transmit between one another. To join or to establish a piconet the mobile device or devices synchronizes to the master, thus forming a first wireless network comprising at least two devices. See Souissi Figure 5 step 66.

However, Souissi does not disclose or suggest each Node B receiving an uplink indicating one of the cells as the scheduling cell. In contrast to claim 1, Souissi only teaches that one node among two nodes assumes the master cell responsibilities by means of negotiation. Moreover, Souissi teaches that this is done by virtue of the first node to transmit assuming itself to be the master node, so this first node is in fact transmitting on the downlink (i.e. from master to slave), and not the uplink as recited in claim 1. Even if Souissi can be interpreted that it might be the second node to transmit, which applicant does not admit, then at the point of the transmission, the transmission would be horizontal to a peer node, instead of in the uplink to a master node. These transmissions would be comparable to a downlink transmission from the Node B to user equipment and a peer to peer transmission between two Node Bs or two user equipments respectively, which is entirely distinct from the limitations recited in claim 1.

Furthermore, Souissi also does not disclose or suggest that a node would select either of at least two master nodes as its scheduling master node, and inform both master nodes as such. Souissi does not even teach that a node would select either of at least two peer nodes as its scheduling master node and informing both peer nodes as such. Souissi only teaches whether a node itself or the node with which it is communicating shall assume the position of master node.

There is hence no choice involved between two master nodes and no communication to any other node. Instead, Souissi only discloses that the first node to transmit assumes the position of master node means that the master node identifies itself as the master node, rather than a slave node indicating by transmission which node of plural nodes should become the master node. In addition, any further nodes joining the network would be informed (i.e. on the downlink or on a peer-to-peer link) which node is the established master node, neither of which is distinct from the limitations recited in claim 1. See Souissi paragraph [0082].

Furthermore, Souissi only addresses a transmission priority and interference avoidance mechanism among the existing master nodes in case of conflicts. See Souissi paragraph [0030]. Souissi also only describes the selection of the frequency hopping sequence by the master node and merely states that new nodes join the piconet as slave nodes to the existing master node, and not selection of a scheduling cell as recited in claim 1. See Souissi paragraphs [0051]-[0052]. While Souissi states that nodes may be part of multiple piconets, Souissi also explicitly states that such nodes are slaves capable of following commands from each piconet's master. See Souissi paragraph [0045]. As such, a node can be part of multiple piconets, but it must adhere to the scheduling control of the master in each piconet (except in piconets where the node itself is the master). Therefore, there is no suggestion that such nodes would indicate any of the master nodes to which it is a slave as the scheduling cell and the other masters as non-scheduling cells. It follows that the only mechanism to end scheduling control of the master in any picocell according to Souissi is to leave the picocell entirely. Accordingly, for at least the reasons discussed above, the cited references fail to disclose or suggest all of the limitations recited in claim 1.

The independent claims rejected above, contain limitations similar to those recited in claim 1. Therefore, for at least the reasons discussed above, the independent claims are not disclosed or suggested by the cited references.

The claims rejected above, and depending from the above mentioned independent claims are not disclosed or suggested at least in view of their dependencies.

In section 6, on page 18 of the Office Action, claims 6-9, 17-18, 22-25 and 41 are rejected under 35 USC §103(a) as being unpatentable over 3GPP; Technical Specification Group Radio

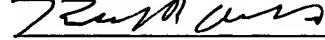
Access Network; Feasibility Study for Enhanced Uplink for UTRA FDD; (R. 6) 3GPP TR 25.896 V0.3.2. (hereinafter TR 25.896) in view of Souissi, and in further view of admitted prior art. The rejected claims all ultimately depend from an independent claim, and therefore are not disclosed or suggested by least in view of their dependencies.

### CONCLUSION

It is believed that all of the claims of the application are in condition for allowance and their passage to issue is earnestly solicited. The undersigned hereby authorizes the Commissioner to charge Deposit Account No. 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

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